

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE (WILMINGTON)**

LOCAL UNION NO. 313 OF THE INTERNATIONAL :
BROTHERHOOD OF ELECTRICAL WORKERS OF, :
WILMINGTON DELWARE HEALTH :
AND WELFARE FUND, et al. : Civil Action No.06 -037 (JJF)
Plaintiffs, :
v. :
BAY ELECTRICAL SERVICES, LLC :
a/k/a Bay Electrical Services :
Defendant. :

PLAINTIFFS' RESPONSE TO THE COURT'S
ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED

Plaintiffs, Local Union No. 313 of the International Brotherhood of Electrical Workers of Wilmington, Delaware Health and Welfare Fund, Local Union No. 313 of the International Brotherhood of Electrical Workers of Wilmington, Delaware Pension Fund and International Brotherhood of Electrical Workers Local Union No. 313 Deferred Income Plan (“Welfare Fund”, “Pension Fund” and “DIP” and, jointly, “Funds”), and International Brotherhood of Electrical Workers’ Union Local No.313 (“Union” and together with “Funds”, “Plaintiffs”), by and through their counsel, respond to the Court’s August 12, 2008 Order to show cause why with matter should not be dismissed, pursuant to Rule 41.1, as follows:

1. This action was commenced on January 19, 2006 when Plaintiffs filed a complaint against Defendant, Bay Electrical Services, LLC a/k/a Bay Electrical Services (“Defendant”).
2. Service was made upon Defendant on January 20, 2006, as evidenced by the Return of Service duly docketed with this Court.
3. On February 10, 2006, the Plaintiffs filed a Request for Default against Defendant.

4. On May 1, 2006, the Clerk entered default in favor of the Plaintiffs.
5. Since the entry of default, both attorneys of counsel, Sanford Rosenthal and Jessica Tortella, have ceased employment with Jennings Sigmond, PC.
6. Current attorney of counsel was unaware that this matter was still outstanding.
7. There has been no prejudice to the Defendant.
8. Plaintiffs currently intend, with all due speed, to file a Motion for Default Judgment.

WHEREFORE, Plaintiffs respectfully request that this case not be dismissed for lack of prosecution and that the Plaintiffs be afforded a reasonable time to file a Motion for Default Judgment.

Respectfully submitted,

FERRY, JOSEPH & PEARCE, P.A.

By: /s/ Rick S. Miller
RICK S. MILLER (#3418)
Ferry, Joseph & Pearce, P.A.
824 Market St., Suite 904
P.O. Box 1351
Wilmington, DE 19899
(302) 575-1555

Date: August 21, 2008

OF COUNSEL:

JENNIFER L. HOPE

ELIZABETH A. COLEMAN

Jennings Sigmond, P.C.

The Penn Mutual Towers, 16th Floor

510 Walnut Street

Philadelphia, PA 19106

(215) 351-0617/644

CERTIFICATE OF SERVICE

I, Rick S. Miller, Esquire, state under penalty of perjury that I caused a copy of the foregoing Response to the Court's Order to show cause why this action should not be dismissed to be served via first class mail, postage prepaid on the date and to the address below:

BAY ELECTRICAL SERVICES, LLC
a/k/a Bay Electrical Services
809B Kiamensi Rd.
Wilmington, DE 19804

Date: August 21, 2008

/s/ Rick S. Miller
RICK S. MILLER, ESQUIRE(#3418)

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